

# **EXHIBIT D**

**From:** [Heather Kliebenstein](#)  
**To:** [Fleming, Terrence](#)  
**Cc:** [Janus, Leah](#); [Pham, Christopher](#); "[15081.0008USZA.active@ef.merchantgould.com](#)"; [Allen Hinderaker](#); [JDubis@MerchangGould.com](#)  
**Subject:** RE: FICO v. Federal - Depositions  
**Date:** Monday, January 27, 2020 4:37:00 PM

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Terry, thank you for your email.

Please confirm that Stuart Fisher and Chase McCarthy are stricken from Federal's Second Supplemental Initial Disclosures and will not be brought to trial as witnesses. The use of the ambiguous phrase "we do not anticipate calling..." does not provide clarity on whether Messrs. McCarthy or Fisher will appear at trial or not. If Federal cannot make this commitment now, we maintain our request for depositions of McCarthy and Fisher.

Further, in addition, please provide dates for the following witnesses:

- Mencke
- Theberge
- Garnes

Best,

Heather

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**From:** Fleming, Terrence <TFleming@fredlaw.com>  
**Sent:** Friday, January 24, 2020 5:21 PM  
**To:** Heather Kliebenstein <HKliebenstein@merchantgould.com>; Allen Hinderaker <AHinderaker@merchantgould.com>; JDubis@MerchangGould.com  
**Cc:** Janus, Leah <LJanus@fredlaw.com>; Pham, Christopher <CPham@fredlaw.com>  
**Subject:** FICO v. Federal - Depositions

**CAUTION - External.**

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Heather,

We are working on obtaining the available dates for Claudio Ghislanzoni, Mike Schraer, and Ewen Setti. At this time, we do not anticipate calling Stuart Fisher or Chase McCarthy as trial witnesses, and therefore, will not be seeking their availability for deposition. Finally, we will respond with respect to the Nancy Verduin deposition in the near future.

Terry



**Terrence J. Fleming**  
**Shareholder**

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